



The Republic of Turkmenistan

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Joint-Submission by CIVICUS: World Alliance for Citizen
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and

Turkmenistan Helsinki Foundation

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1. (A) Introduction

- 1.1 CIVICUS: World Alliance for Citizen Participation is an international movement with members in more than 100 countries worldwide. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizen's freedom of association are threatened.
- 1.2 The Turkmenistan Helsinki Foundation is an independent, nonpartisan, nongovernmental organisation, founded on 21 July 2003 in Bulgaria. The Turkmenistan Helsinki Foundation is a voluntary association of citizens engaged in monitoring the human rights situation in Turkmenistan. It assists Turkmen citizens both at home and abroad.
- 1.3 In this document, CIVICUS and the Turkmenistan Helsinki Foundation outline urgent concerns related to the environment in which civil society activists and human rights defenders operate in Turkmenistan, and discuss threats faced in the exercise of the freedoms of expression, association and assembly.
- 1.4 CIVICUS and the Turkmenistan Helsinki Foundation are deeply alarmed by legislative and extra-legal measures taken by the Turkmenistan Government that drastically curb the freedom of association and potential for civil society activism.
- 1.5 CIVICUS and the Turkmenistan Helsinki Foundation are also greatly concerned by undue and arbitrary restrictions on the freedom of expression, independence of the media and access to information.
 - In Section B, CIVICUS and the Turkmenistan Helsinki Foundation highlight concerns related to the freedom of association and restrictions on civil society activities.
 - In Section C, CIVICUS and the Turkmenistan Helsinki Foundation express concerns involving harassment and arbitrary detention of human rights defenders.
 - In section D, CIVICUS and the Turkmenistan Helsinki Foundation highlight concerns relating to the freedom of expression, independence of the media and restrictions on access to information.
 - In section E, CIVICUS and the Turkmenistan Helsinki Foundation highlight concerns regarding the freedom of assembly.
 - In section F, CIVICUS and the Turkmenistan Helsinki Foundation make a number of recommendations to address these concerns.

2. (B) Restrictions on freedom of association and impediments to civil society activities

- 2.1 Article 28 of the Constitution of Turkmenistan guarantees the right to freedom of association. Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Turkmenistan is a state party, also guarantees freedom of association. However, the Law on Public Associations, adopted in 2003,

creates numerous obstacles to the effective realisation of this right, including onerous barriers to registration, draconian limitations on access to foreign funding and wide discretionary powers to intervene in the internal affairs of CSOs. The government's continued discriminatory and politicised invocation of the law to silence independent civil society is also a matter of great concern.

- 2.2** According to Article 51 of the Civil Code, there are only two legally permissible classifications of CSOs in Turkmenistan: public associations and foundations. However, in reality, only public associations operate. Article 17 of the Law on Public Associations requires all Public Associations (PAs) to register with the Ministry of Justice (MoJ). Unregistered groups are strictly prohibited by law from undertaking any activities. While local PAs are only required to have five members to establish, national organisations are expected to have at least 500 members to register. Further constraints to registration are imposed on PAs, including requirements that all founders, members and participants are adult Turkmen citizens. In a country where individuals routinely face government reprisals for involvement with independent civil groups critical of official policies, such excessive requirements pose a severe hindrance to the establishment of independent organisations with a national remit.
- 2.3** The Law on Public Associations also provides the government with a powerful discretionary tool to monitor and regulate PAs. First, the government, through the MoJ and regional ministerial branches, can insert a ministerial representative into PA events and meetings. Such provisions severely undermine the rights to freedom of association and privacy enshrined in the ICCPR. Second, under Article 22 of the law, PAs are required to inform the relevant government body of upcoming planned activities. Further, according to Article 21 of the law, PAs are only permitted to “maintain international contacts and relationships” and forge inter-organisational agreements with the “involvement” of the Ministry of Foreign Affairs.
- 2.4** The Law on Public Associations also imposes severe and arbitrary restrictions on international and national resource mobilisation. Under the law, PAs are expected to register all activities supported by foreign financial or technical assistance with the MoJ. The process can be exceptionally protracted, with approval for the project commonly subject to the discretion of the MoJ. Further, according to Article 25, PAs which endeavour to conduct election-related activities are prohibited from receiving financial or material assistance from foreign organisations, governments and citizens.
- 2.5** As a result of the discriminatory application of the law, independent civil society groups are almost non-existent in Turkmenistan. According to international watchdog groups, while in 2000 there were estimated 200 to 300 registered and unregistered CSOs operating in Turkmenistan, as of late 2010 this number has reduced to approximately 99. Government-organised CSOs and sports-orientated CSOs constitute approximately three-quarters of registered CSOs in Turkmenistan. From 2008 to late 2010, only one new independent CSO, the Society of Guitarists, was registered in the country. The effects of the law are severely exacerbated by the government's complete injunction on independent human rights monitoring in Turkmenistan, including refusing to allow the

International Committee of the Red Cross and other international CSOs to enter. In addition, almost all international CSOs, including service-delivery organisations, have been disallowed from maintaining branch offices in Turkmenistan.

3. (C) Concerns involving harassment, intimidation and attacks against human rights defenders and civil society activists

- 3.1** The ICCPR guarantees the freedoms of expression, association and assembly. Nonetheless, arrest and detention and other acts of intimidation against human rights defenders continue in Turkmenistan. It is a matter of deep concern that human rights defenders engaged in the legitimate activity of highlighting concerns are being subjected to reprisals by state officials. A number of members of CSOs and individual activists exposing human rights violations committed by the Turkmen Government and security forces have been arrested, detained, or subjected to intimidation to prevent them from continuing their work.
- 3.2** National level independent civil society activists are strictly limited in their ability to meet and communicate with international actors. It is reported that civil society groups are regularly prevented from meeting with international delegations from governments, the United Nations and the Organisation for Security and Cooperation in Europe (OSCE). Directly preceding the arrival of members of the European Parliament in April 2011 to assess the human rights situation in Turkmenistan, security personnel arrested Bisengul Begdesenov, who had previously initiated a campaign to open an ethnic Kazakh cultural centre in the capital. In May 2011, Begdesenov was given a suspended nine-year sentence for swindling and abetting bribery.
- 3.3** In addition, the government commonly prevents civil society activists from travelling outside Turkmenistan, instituting sweeping travel bans on perceived dissidents. On 16 July 2010, Turkmen border officials prevented activist Umida Jumabaeva from leaving the country for Kazakhstan. In 2009, Ms Jumabaeva assisted environmental activist Andrei Zatoka when he was arrested on spurious charges and later forcibly deported from Turkmenistan. On 28 June 2010, Turkmen officials also prevented activists Annamamed and Elena Miatiev from attempting to leave Turkmenistan to seek medical treatment.
- 3.4** Arbitrary arrests and detention of activists continue unabated in Turkmenistan. Prior to a visit of the European Parliament to Turkmenistan in April 2011, security personnel arrested Bazargeldy and Ayjema Berdyev who have campaigned for redress against their reported torture in custody and the unwarranted seizure of their property in the 1990s. At the time of writing, the whereabouts of Bazargeldy and Ayjema Berdyev remain unknown.

4. (D) Concerns regarding freedom of expression and access to information

- 4.1** Article 26 of the Constitution of Turkmenistan guarantees the freedom of expression and thought. Article 19 of the ICCPR also guarantees the freedom of expression and the right to hold opinions without interference. However, in contrast to these rights, several journalists and reporters have come under

attack and harassment for reporting on sensitive topics. Further, the government continues to drastically limit access to international media and internet news sites and strictly controls domestic media outlets. The Turkmenistan Government's campaign to silence dissenting voices has severely jeopardised freedom of expression in Turkmenistan and undermined independent media.

- 4.2** Due in large part to policy barriers against establishing an independent media outlet, few journalists and reporters are able to operate freely in Turkmenistan. The Turkmen Government also maintains strict control over domestic media outlets and the press corps. All mass media outlets in Turkmenistan are required to secure a government license, but the fees for a license vary considerably according to the applicant. Government outlets are not expected to pay a fee to establish a newspaper, but individuals and private corporations are forced to pay exorbitant and prohibitive fees to establish a newspaper. According to recent estimates, independent entities that seek to open a newspaper must pay approximately US\$30,000. Further, all licenses must be approved by Turkmenmetbugat, the state publishing agency, with final approval then made by the Ministry of Internal Affairs and the Cabinet of Ministers.
- 4.3** Access to foreign media is severely restricted in Turkmenistan. With few exceptions, including for ministries, departments and some governmental organisations, Turkmen citizens are not permitted to subscribe to any foreign periodicals at their home address. Social media sites, including YouTube, Facebook and Twitter, are routinely blocked. The government also blocks access to websites of opposition groups and independent news sites. Media outlets are generally proscribed from reprinting international news. In addition, severe restraints have been placed on international reporters. On 19 May 2010, border officials refused Radio Free Europe/Radio Liberty news service correspondent Allamurad Rakhimov from entering Turkmenistan despite having a valid visa. Mr Rakhimov was summarily forced to return to Prague.
- 4.4** Journalists Annakurban Amanklychev and Sapardurdy Khadzhiev, who are also long time members of the Turkmenistan Helsinki Foundation, were sentenced to seven years in prison in August 2006 on specious claims of possessing illegal munitions, and continue to languish in prison. There are serious concerns about the health of Amanklychev and Khadzhiev. They are being held in Turkmenbashi prison in a remote location near the Caspian Sea. Journalist Ogulsapar Muradova, who was also sentenced to a six-year sentence under the same charge, died in Ovodan Depe prison in September 2006 after being beaten by correctional officers. All three were arrested subsequent to working with the French TV production company Galaxie-Pressé in helping to prepare a report on Turkmenistan.
- 4.5** On 5 October 2011, Dovletmyrat Yazkulyyev, a correspondent for Radio Free Europe/Radio Liberty news service correspondent was sentenced under Article 106.2 of the Criminal Code to five years in prison for supposedly abetting a relative's attempt to commit suicide. However, there remain serious doubts about the circumstances of the trial. It is widely believed that the real reason for Yazkulyyev's arrest was to censor his reporting on an explosion at a weapons depot in July 2011. On 26 October 2011, Yazkulyyev was released following a presidential pardon.

5. (E) Concerns regarding freedom of assembly

5.1 Article 27 of the Constitution of Turkmenistan guarantees the right to freedom of assembly. In addition Article 21 of the ICCPR also protects the right to freedom of peaceful assembly. Nonetheless, severe limitations exist on the realisation of this right. In practice, the threat of government reprisals greatly discourages groups from holding demonstrations and protests. The authorities also require citizens to secure a permit to hold a public protest, while unregistered organisations are routinely refused permission to hold public gatherings.

5.2 On 8 July 2011, a rare public protest was staged by a group of 50 people outside Hotel Oguzkent in central Ashgabat. The group gathered in protest against the proposed demolition of an apartment complex with the aim of clearing space for construction of a highway. Police immediately dispersed the group and arrested four female protesters suspected of organising the demonstration.

6. (F) Recommendations to the Government of Turkmenistan

CIVICUS and the Turkmenistan Helsinki Foundation call on the Government of Turkmenistan to create an enabling environment for civil society such that it can operate in accordance with the rights enshrined in the ICCPR and the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be ensured: freedom of association, freedom of expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made.

6.1 Regarding restrictions on the freedom of association

- The Law on Public Associations should be repealed or suitably amended to ensure that restrictions on the freedom of association are removed;
- The requirement for mandatory registration of CSOs should be repealed;
- Registration procedures for public associations should be simplified, particularly the requirement of needing 500 members to establish a national organisation;
- Regulations and practices for obtaining international funding for public associations should be made more enabling.

6.2 Regarding the arbitrary detention and harassment of civil society activists

- All due process guarantees in accordance with Article 14 of the ICCPR should be ensured to all detained persons;
- Civil society members should be provided a safe and secure environment to carry out their work. All instances of violation of their rights should be

independently investigated;

- All imprisoned civil society activists and human rights defenders should be unconditionally released;
- Travel restrictions placed on civil society members should be removed, permitting them to exercise their right to freedom of movement;
- International organisations should be allowed unhindered access to enter Turkmenistan and carry out their lawful mandates. They should also be allowed to open branch offices.

6.3 Regarding restrictions to freedom of expression and access to information and intimidation, harassment and attacks on journalists

- All journalists detained for exercising their freedom of opinion and expression should be unconditionally and immediately released. Their sentences should be reviewed to prevent further harassment;
- Attacks on and threats to journalists should be publicly condemned by senior government officials to ensure protection by law enforcement agencies;
- Licensing procedures in respect of setting up independent media establishments should be simplified to support the creation of an independent and vibrant media sector;
- Unfettered access to online information resources should be allowed by removing restrictions on access to national and international news websites and social media outlets.

6.4 Regarding restrictions on freedom of assembly

- Best practices should be adopted on freedom of peaceful assembly, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) and the OSCE Office for Democratic Institutions and Human Rights (ODIHR) Guidelines on Freedom of Peaceful Assembly (2007), which call for simple notification rather than explicit permission to assemble.

6.5 Regarding Access to UN Special Procedures and Mandate Holders

- A standing invitation should be extended to the UN Special Procedures, particularly to the Special Rapporteur on Human Rights Defenders, Special Rapporteur on Freedom of Expression and the Special Rapporteur on Freedom of Peaceful Assembly and Association.